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8
9 **UNITED STATES DISTRICT COURT FOR**
10 **THE NORTHERN DISTRICT OF CALIFORNIA**
11

12 Allen Loretz, individually and on behalf of all
13 others similarly situated,

14 Plaintiffs,

15 v.

16 Regal Stone, Ltd., Hanjin Shipping, Co., Ltd.,
Synergy Maritime, Ltd., Fleet Management
17 Ltd., and John Cota, *In Personam*; M/V Cosco
Busan, their engines, tackle, equipment,
18 appurtenances, freights, and cargo *In Rem*,

19 Defendants.

Case No. C 07-5800 SC

**STIPULATION AND [PROPOSED]
ORDER RE LIMITED
INTERVENTION OF STATE
COURT PLAINTIFFS AND FILING
MOTION FOR PRELIMINARY
APPROVAL OF DUNGENESS
CRAB SETTLEMENT**

1 WHEREAS, Plaintiff Allen Loretz (“Federal Court Plaintiff”) alleges, through the
2 instant action (“Federal Court Action”), claims for damages and injunctive and declaratory
3 relief arising out of the Cosco Busan Oil Spill of November 7, 2007 (“CBOS”) on behalf of a
4 putative class of all commercial fishermen operating in the San Francisco Bay and surrounding
5 ocean areas against Defendants Regal Stone Limited, Hanjin Shipping, Co., Ltd., Fleet
6 Management Ltd., and John Cota, and the M/V Cosco Busan, *in rem* (collectively
7 “Defendants”);

8 WHEREAS, Plaintiffs John Tarantino, Steven Fitz, Sean Hodges, John Atkinson, Ernie
9 Koepf, Kiu Phang, and Sau Phang (“State Court Plaintiffs,” collectively with the Federal Court
10 Plaintiff and Defendants, “Parties”), through an action filed in San Francisco Superior Court
11 (“State Court Action”), allege claims for damages and injunctive and declaratory relief arising
12 out of the CBOS on behalf of a putative class of all commercial fishermen operating in the San
13 Francisco Bay and surrounding ocean areas against all of the Defendants, except the M/V
14 Cosco Busan *in rem*;

15 WHEREAS, Federal Court Plaintiff and State Court Plaintiffs have negotiated a
16 proposed settlement (“Settlement”) with Defendants Regal Stone Limited and Fleet
17 Management Ltd.;

18 WHEREAS, the Settlement is attached as Exhibit A to the Memorandum Of Law In
19 Support of Plaintiffs’ Motion For Preliminary Approval Of The Dungeness Crab Settlement,
20 which is attached as Exhibit 1 to the Declaration of William Audet in support of the instant
21 Stipulation and [Proposed] Order;

22 WHEREAS, Plaintiffs’ Motion For Preliminary Approval Of The Dungeness Crab
23 Settlement is being separately filed herewith, along with other associated documents;

24 WHEREAS, unless defined herein, all defined terms used herein shall be given the
25 meanings defined in the Settlement;

26 WHEREAS, the Settlement provides for the global resolution of the Released Claims of
27 Dungeness Crab Settlement Class Members against Released Parties (which includes all
28

1 Defendants) made in both the State Court Action and the Federal Court Action;

2 WHEREAS, the Settlement proposes the appointment, as Dungeness Crab Settlement
3 Class Representatives, of Federal Court Plaintiff Allen Loretz, along with State Court Plaintiffs
4 John Tarantino, Steven Fitz, Sean Hodges, and John Atkinson;

5 WEREAS, the Settlement proposes the appointment, as Class Counsel on behalf of the
6 Dungeness Crab Settlement Class, counsel for Federal Court Plaintiffs, William M. Audet of
7 Audet & Partners, LLP, and counsel for the State Court Plaintiffs, Frank M. Pitre of Cotchett
8 Pitre & McCarthy;

9 WHEREAS, neither the Defendants nor the Federal Court Plaintiff object to the
10 intervention by State Court Plaintiffs in the instant action for the limited purposes of
11 participation in proceedings related to Court approval of the Settlement and any related
12 application for award of attorneys' fees and reimbursement of costs;

13 WHEREAS, the Defendants therein have are not opposed to Plaintiffs' Motion For
14 Preliminary Approval Of The Dungeness Crab Settlement; and

15 WHEREAS, no Party requests leave to make oral argument in support or opposition to
16 Plaintiffs' Motion For Preliminary Approval Of The Dungeness Crab Settlement;

17 NOW, WHEREFORE, PURSANT TO CIVIL L.R. 7-1(a) AND 7-12, DEFENDANTS,
18 FEDERAL COURT PLAINTIFF, STATE COURT PLAINTIFFS, HEREBY STIPULATE
19 AND AGREE, SUBJECT TO THE COURT'S APPROVAL:

20 1. State Court Plaintiffs may intervene in the instant action pursuant to Federal
21 Rule of Civil Procedure 24 for the limited purposes of participation in proceedings related to
22 Court approval of the Settlement and any related application for award of attorneys' fees and
23 reimbursement of costs;

24 2. Notwithstanding Civil L.R. 7-2(a), Federal Court Plaintiff may file Plaintiffs'
25 Motion For Preliminary Approval Of The Dungeness Crab Settlement without noticing the
26 Motion on the Court's motion calendar;

27 3. The instant Stipulation and [Proposed] Order shall constitute a Statement of
28 Nonopposition by each Defendant to Plaintiffs' Motion For Preliminary Approval Of The

Dungeness Crab Settlement pursuant to Civil L.R. 7-3(b). Although Defendants do not oppose Plaintiffs' Motion for Preliminary Approval, they do not necessarily agree to or adopt the representations or characterizations of fact as presented by Plaintiffs in their Motion.

4. Neither Federal Court Plaintiff nor State Court Plaintiffs shall file any reply in support of Plaintiffs' Motion For Preliminary Approval Of The Dungeness Crab Settlement;

5. Upon its filing with the Court, Plaintiffs' Motion For Preliminary Approval Of The Dungeness Crab Settlement shall be deemed under submission to the Court; and

6. No hearing on the Motion For Preliminary Approval Of The Dungeness Crab Settlement shall held, unless the Court separately orders that such a hearing be held.

IT IS SO STIPULATED.

Dated: April 9, 2010

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Dated: April 9, 2010

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1 Dated: April 9, 2010

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*Counsel For Defendants Regal Stone Limited and
Fleet Management Ltd.*

10 Dated: April 9, 2010

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Counsel For Defendant Hanjin Shipping, Co.

17 Dated: April 9, 2010

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Counsel For Defendant John Cota

25 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

26 DATED: _____, 2010

27 The Honorable Samuel Conti
28 United States District Judge